

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,018

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare to reduce his ANFC and Food Stamp benefits based on the income of his minor child.

FINDINGS OF FACT

1. The petitioner lives in a household with his wife, who receives SSI, and his three minor children. The household receives both ANFC (as a Group III participant) and Food Stamps. Sometime in May of 1997, the petitioner's seventeen-year-old daughter, who does not go to high school but who has her GED, began working at a laundromat. Even though his daughter lives in his household, the petitioner did not report her receipt of income because he believed she was emancipated and as such could not have her income counted as part of the household's. The petitioner was unaware of the number of hours and actual hourly rate earned by his daughter.
2. On April 21, 1997, the Department discovered that the daughter was working through a report of the petitioner's Reach Up counselor that the daughter had requested Reach Up assistance with car repairs and new tires so she could go to work. The counselor's information was that she was working at a laundromat earning \$5.00 per hour for a forty hour work week. The petitioner was contacted by mail and asked to verify his daughter's employment. A follow-up telephone call was made after no response was received to ask again for the verification. None was forthcoming.
3. The Department thereafter recalculated the household's ANFC and Food Stamp eligibility based on the information it had from the DET wage match. To the petitioner's ANFC income, the Department added \$860 for the daughter's income (\$200 per week x 4.3 weeks per month) which was adjusted by deducting a \$327.50 earned income disregard for ANFC and a \$172.00 earnings deduction for Food Stamp purposes. It was determined that the ANFC amount would decrease from \$585 to \$52 and the Food Stamps would decrease from \$185 to \$131 based upon the addition of that earned income.
4. The petitioner was notified on May 14, 1997 that his benefits would be reduced as of June 1, 1997. He does not dispute the mathematical correctness of the calculations⁽¹⁾ but does dispute the addition of his daughter's income in the calculations. He feels that she is an emancipated minor, not a high school student, and should not be considered a member of his family's household for calculation of his family's

eligibility. His daughter will turn 18 on June 15, 1997.

5. At the hearing the petitioner provided a copy of one of his daughter's paychecks showing that during the week of May 23, 1997, to May 29, 1997, she worked 34 hours and made \$170 for that week. The petitioner said he believed that was the first week his daughter worked but added that she would not give him any further information to verify the amounts. Her refusal was based on her belief that giving out the information was an invasion of her privacy since she did not wish to receive ANFC or Food Stamp benefits. It is not possible to conclude from the little evidence supplied by the petitioner when his daughter began employment or what amounts she makes each week.

ORDER

The decision of the Department is affirmed.

REASONS

The Food Stamp regulations provide that for purposes of determining eligibility, "household" members are parents and their natural children 21 years of age or younger who are living together. Minor children must all be included in the group unless the children are themselves married or parents and also living in the household with their own spouses or children. F.S.M. § 273.1(a)(1)(iii) and (2)(i)(C). Children under the age of eighteen years old who can show they are financially independent of other members of the household can only be excluded if they are living with adults who are not their natural parents. F.S.M. § 273.1(a)(2)(i)(B).

The petitioner's daughter does not fit the exception for children under eighteen living with their parents. In fact, under this regulation it appears that the daughter's income will continue to be counted for Food Stamp purposes until she turns 21 years old unless she marries or has children before that age at which time she could be treated as a separate household if she purchases food and prepares her own meals separately. Unless and until that occurs, the Department is bound by the regulations to include the petitioner's daughter in the household.

Under the regulations, all income of household members must be included in determining eligibility for Food Stamps (F.S.M. § 273.9(b)) and wages from employment is specifically listed as countable earned income (F.S.M. § 273.9(b)(1)(i)) although it is subject to a twenty per cent earned income deduction (F.S.M. 273.9(d)(2)). The Department correctly counted the daughter's income in its calculations and gave her the earned income deduction to which she was entitled.

For ANFC eligibility, the Department's regulations require that an ANFC assistance group include all of the siblings "who live with a dependent child or children, who are also deprived of parental support and who qualify under the ANFC age criteria as defined in policy." W.A.M. 2242. That age criteria for eligibility is less than eighteen years of age for children who are not attending high school. W.A.M. 2301. The petitioner's daughter clearly qualifies under the age criteria and is indisputably the sibling of and lives with other ANFC dependent children. Finally, the petitioner is a child "deprived of parental support" under the regulations because she lives with a parent (her mother) who is incapacitated and

another parent (her father) who is unemployed. W.A.M. 2330. As such, the daughter must be included in the assistance unit for ANFC purposes.

Under the regulations, all income of persons in the assistance unit must be considered when eligibility for assistance is determined unless it is specifically excluded under the regulations. W.A.M. 2250. The only exclusions for earned income of eligible children is for the income of a child who is either a full or part-time student or for income that is from a program carried out under the Job Training Partnership Act. W.A.M. 2255.1 (13) and (14). The facts here do not support an exclusion under either program. It must be concluded that the Department appropriately counted the income of the petitioner's daughter for purposes of determining the family's ANFC eligibility and that such inclusion continued to be appropriate until the daughter's eighteenth birthday on June 15, 1997 at which time she no longer met the age criteria and was no longer eligible for inclusion in the assistance group.

If the petitioner can provide verification to the Department of the dates of his daughter's employment and the actual amount of earnings showing that she did not earn as much or for as long as the Department believes, his eligibility could be recalculated. As it now stands, the Department's decision is in accord with the known facts and law and must be affirmed by the Board, 3 V.S.A. § 3091(d).

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1. The petitioner questioned whether he was receiving a sufficient shelter and utility allowance for Food Stamps based on information he received from Law Line that that figure was incorrect. He agreed that his shelter (mortgage and taxes) for one month is \$187.54 to which the Department added \$318 for utilities, the maximum allowance, for a total shelter of \$505.54. After that explanation, the petitioner did not make a further argument or present any other evidence that his shelter and utility allowance should have been more. The Department's calculation is in accord with its regulations. See P-2510(E)(2), P-2590(A)(4) and (5).